

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO**

Marlon Magdiel Lopez Rodriguez,)	CASE NO. 3:21 CV 1998
)	
Petitioner,)	JUDGE PATRICIA A. GAUGHAN
)	
v.)	
)	<u>Memorandum of Opinion and Order</u>
Merrick Garland, et al.,)	
)	
Respondents.)	

Pro se Petitioner Marlon Magdiel Lopez Rodriguez, an Immigration and Customs Enforcement (“ICE”) detainee in the Seneca County Jail, filed this Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 objecting to his conditions of confinement. He contends the jail is short staffed and medical staff are not present on evenings and weekends. He contends he needs dental and mental health treatment. Petitioner maintains that as an ICE detainee, he should receive better treatment than the criminal detainees in the jail but he is denied free telephone minutes, a tee shirt, and shoes. He indicates he does not have access to a microwave. He states that the commissary list is short and the commissary prices are too high. He claims the jail is dirty and there are no paper towels or cleaners available to detainees. He states that there are unvaccinated inmates in the jail and staff members do not regularly wear masks. He asks this

Court to order his release from the jail, and award him monetary damages. For the reasons stated below, the Petition is denied and this action is dismissed.

Habeas corpus petitions cannot be used to assert claims pertaining to conditions of confinement. *Martin v. Overton*, 391 F.3d 710, 714 (6th Cir. 2004). The grounds listed in the Petition all pertain to the conditions to which Petitioner is subjected in the county jail. Those claims cannot be asserted in a habeas petition. *Id.*; *Preiser v. Rodriguez*, 411 U.S. 475, 487-88 (1973). They can only be brought in a civil rights action.

Accordingly, Petitioner's Application to Proceed *In Forma Pauperis* (Doc. No. 2) is granted and this action is dismissed pursuant to 28 U.S.C. § 2243. Further, under 28 U.S.C. § 1915(a)(3), this Court certifies an appeal could not be taken in good faith.

IT IS SO ORDERED.

Dated: 2/9/22

/s/ Patricia A. Gaughan
PATRICIA A. GAUGHAN
United States District Court
Chief Judge